

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking to have the Landlord pay for emergency repairs and recover his filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

At the outset of the hearing, the Agent for the Landlord explained that he was not the owner of the manufactured home park, and that his spouse was. He acknowledged that his spouse was aware of the hearing and of the amount and particulars being claimed. He explained his spouse was available for the hearing if required. The Agent for the Landlord testified that the owner consented to be joined in the hearing proceedings. Therefore, I order that the Application be amended to include the name of the owner of the park, and I have amended the style of cause accordingly. I further find that the owner has been duly served with the Notice of Hearing and the Application for Dispute Resolution.

This matter was originally heard on June 4, 2009, with only the Applicant Tenant participating. On June 12, 2009, the Respondent Landlord applied for Review, which was dismissed and the original Decision confirmed in the Review Determination. The Landlord applied for a Judicial Review in the Supreme Court of British Columbia, and on August 31, 2009, an Honourable Justice of the Supreme Court of British Columbia ordered that a new hearing be held in this matter. The hearing on this date was the new hearing as ordered.

### Issues(s) to be Decided

Is the Landlord responsible for the cost of emergency repairs?

### Background and Evidence

On November 25, 2008, an electrical contractor replaced a section of underground electrical line which runs to the subject manufactured home site # 35 (the "Site"). There was a power outage to the area and following this, it was determined there was some problem with the electrical line to the Site. It was agreed that it was more cost effective to replace the entire line than try to find and repair the malfunctioning portion of it. An excavator was used to dig a trench so the broken line could be replaced.

The underground electrical line runs from the Site to an electrical pedestal which is located at a different manufactured home pad in the park. According to the electrical invoice the installed line measures some 34 meters. The invoice for the electrical work amounts to \$1,615.90.

The Tenant's position is that the Landlord is responsible to pay for these repairs. According to a note on the invoice and the testimony of the parties, the Landlord has instructed the electrical contractor to charge this work to the Tenant.

The Landlord's position is that the Tenant is responsible to pay for the electrical hook up from the electrical pedestal to the manufactured home. It does not matter to the Landlord that the hook up runs some 34 meters underground before it connects to the pedestal, which again, is located at a different pad site.

I note the line runs under common property from the Site to the pedestal servicing another pad.

The Landlord's Agent explained the park underwent an expensive electrical upgrade several years ago, with overhead power lines being buried. According to the Agent, it was determined that an electrical pedestal did not have to be installed at the subject Site, in order to conform with the electrical code at the time.

### Analysis

Based on the foregoing, the affirmed testimony and evidence, and on a balance of probabilities, I find as follows:

As the electrical line runs underground, beneath common property, from a different pad over to the rental Site, I find that the electrical line here is part of the infrastructure of the park, and is the Landlord's responsibility. Furthermore, I find the line is a fixture owned by the Landlord.

If the pedestal in question was located right at the rental Site, I would agree with the Landlord's position that the Tenant should pay for that connection, just as the Tenant is responsible for the sewer line from the manufactured home to the hook up at the rental Site. However, the sewer hook up is right at the pad Site, not across a stretch of common property some 34 meters away.

Under the Act, the Landlord must not terminate or restrict a service or facility if the service or facility is essential to the Tenant's use of the manufactured home site. A service or facility is defined in the Act as including electricity. I find that an electrical hook up at the site is an essential service or facility.

The Landlord is also required to provide and maintain the park in accordance with housing, health and safety standards required by law.

Electrical systems are also included in the section of the Act pertaining to emergency repairs which the Landlord is responsible for.

**Therefore, I find the Landlord is responsible to pay for the underground electrical line, and I order the Landlord to pay for this.**

If the electrical contractor is still trying to have the Tenant pay for this work, the Tenant may provide a copy of this Decision to the contractor.

Conclusion

The Landlord is responsible to pay for the underground electrical work running to the rental Site.

The parties have already dealt with the filing fee in this matter.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 27, 2009.

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Dispute Resolution Officer